

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. CR 11-2972 BB

LUIS ALBERTO CARRASCO,

Defendant.

PROPOSED FINDINGS AND RECOMMENDED DISPOSITION

THIS MATTER is before the Court on the United States' Motion for Order to Show Cause and Forfeiture of Appearance Bond (*doc. 247*), in which Plaintiff moves the Court for a Judgment of Forfeiture of the \$20,000.00 bond executed by the defendant, third party custodian Rosa Maria Arrieta, and surety Angelica Herrera-Lucero of Herrera Bail Bonds. The Court having held a hearing, having heard from all the parties, and being fully advised in the premises, recommends that the Motion be granted.

Defendant Luis Alberto Carrasco was charged on November 29, 2011 in count one of a two count Indictment with conspiring with others to possess with intent to distribute a large quantity of methamphetamine, in violation of 21 U.S.C. § 846. The defendant was subsequently arrested and appeared before this Court for an Arraignment/Detention hearing on December 2, 2011. At said hearing, I denied bond.

Defense counsel subsequently filed an Unopposed Motion to Grant Conditions of Release (*doc. 139*) and a hearing was held. The motion was granted in part and denied in part, Conditions of Release were set which included posting a \$20,000.00 secured bond (to be cosigned by the third party custodian, Rosa Maria Arrieta), Pretrial Services supervision, and travel restrictions including no travel to Mexico, along with other requirements as set out in the Order Setting Conditions of Release (*doc. 168*) filed on December 15, 2012.

On March 13, 2012, a Petition for Action of Conditions of Release was filed by the U.S. Pretrial Services Office requesting a warrant be issued for the defendant's arrest as it appeared he had absconded. That request was granted in an Order filed the next day, and an arrest warrant was issued.

On March 30, 2012, the Motion for Order to Show Cause and Forfeiture of Appearance Bond was filed by Plaintiff. At the hearing on the Motion held on April 10, 2012, Defendant's counsel appeared but Defendant failed to appear. Defense counsel presented no excuse for Defendant's failure to appear nor his apparent violation of conditions of release, but did express concern for Defendant's well-being. The third-party custodian, Rosa Maria Arrieta, also appeared at the hearing and provided no information about Defendant's whereabouts. Finally, the surety appeared at the hearing with counsel, Mario Esparza, but provided no information about Defendant's whereabouts.

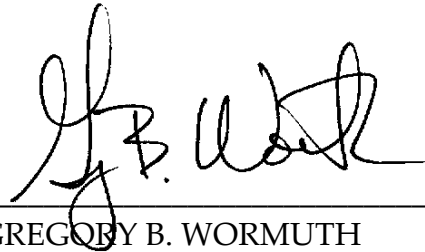
Defendant's counsel, the third-party custodian nor the surety showed cause why

the appearance bond should not be forfeited as requested by Plaintiff. The surety, however, requested thirty days to locate and apprehend Defendant before the bond was revoked. The third-party custodian and Defendant's counsel concurred in this request. The Plaintiff objected arguing that the conditions of release had already been violated and revocation of the bond was therefore appropriate.

The Court agreed to permit the requesting parties thirty days to bring Defendant before the Court. *Doc. 254*. However, the parties were advised that if, "after thirty days from the date of th[at] order, the defendant, Luis Alberto Carrasco, has not been apprehended or does not appear before this Court," a Proposed Findings and Recommended Disposition to grant the United States' motion will be submitted to the District Judge for consideration. The thirty days have passed and Defendant has not been apprehended or otherwise appeared before this Court. Moreover, no party has requested any further extension of time to locate Defendant or otherwise shown cause why the bond should not be forfeited.

IT IS THEREFORE RECOMMENDED that Judgment be entered against the defendant, Luis Alberto Carrasco, the third party custodian, Rosa Maria Arrieta, and the surety, Angelica Herrera-Lucero, in the principal amount of \$20,000.00 plus interest at the legal rate compounded annually and computed daily until paid, and all other costs as allowed by law.

THE PARTIES ARE FURTHER NOTIFIED THAT WITHIN 14 DAYS OF SERVICE of a copy of these Proposed Findings and Recommended Disposition they may file written objections with the Clerk of the District Court pursuant to 28 U.S.C. § 636(b)(1)(c). **A party must file any objections with the Clerk of the District Court within the fourteen-day period if that party wants to have appellate review of the proposed findings and recommended disposition. If no objections are filed no appellate review will be allowed.**

A handwritten signature in black ink, appearing to read 'G.B. Wormuth', is written over a horizontal line.

GREGORY B. WORMUTH
United States Magistrate Judge